

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Gary Reed and Tom Vevea, as  
Trustees of the Minnesota Laborers  
Pension Fund, and each of their  
successors,

Plaintiffs,

v.

Mesabi Bituminous, Inc.,

Defendant.

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**ORDER**

Civil File No. 10-4328 (MJD/LIB)

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois, dated March 17, 2011. [Docket No. 16]. Defendant Mesabi Bituminous, Inc. filed objections to the Report and Recommendation. [Docket No. 17]. Pursuant to statute, the Court has conducted a de novo review of the record, including all transcripts filed and exhibits submitted to the Court. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court **ADOPTS** the Report and Recommendation.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**

**HEREBY ORDERED** that:

1. The Court **ADOPTS** the Magistrate Judge's Report and Recommendation dated March 17, 2011 [Docket No. 16].
2. Defendant's Motion to Dismiss [Docket No. 3] is **DENIED**.

Dated: April 26, 2011

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court